



David Cain
Texas House of Representatives
District 107

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June 3, 1993

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Opinion Council

The Honorable Dan Morales
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

Re: Article 5069-51.178(p) and (r)
(Vernon's Texas Civil Statutes)

Dear General Morales:

Under the authority of Chapter 211 of the Local Government Code, municipalities are currently permitted to regulate the location of pawnshops subject to the following limitations:

1. pawnshops must be permitted as of right in at least one zoning district. (See Section 211.0035(b)); and
2. no specific use permit requirement or any requirement similar in effect may be imposed on a pawnshop that has been licensed to transact business by the Consumer Credit Commissioner ("Commissioner"). (See Section 211.0035(c)).

At this time, pawnshops are permitted as of right in five zoning districts within the City of Dallas.

In contrast to zoning issues, the Texas Pawnshop Act (Article 5069-51.01 et seq., Vernon's Texas Civil Statutes) regulates the licensing and operation of pawnshops. Article 51.17B, "Operation of Pawnshop; Authority of Commissioner," specifically contains the following two paragraphs:

(p) The commissioner may adopt rules related to the use of outdoor displays and signs at pawnshops and the maintenance of the premises at pawnshops.

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(r) The legislature has exclusive authority regarding the operation of pawnshops, except for those matters delegated in this Act to the commissioner. Notwithstanding the provisions of this Act, the commissioner has the authority to regulate only those business practices which require a pawnshop license.

The City Council of the City of Dallas is currently considering an ordinance that would prohibit the accessory outside sales, accessory outside storage, and accessory outside display of merchandise uses in conjunction with pawnshops located in the Community Retail, Regional Retail, and Commercial Service Districts within the city. These accessory uses are expressly defined in the Dallas zoning ordinance.

In light of Article 51.17B(p) and (r), please answer the following questions:

1. Should the Commissioner decide not to enact regulations regarding outdoor displays and signs at pawnshops and the maintenance of the premises at pawnshops, may the city enact such regulations?
2. If so, should the Commissioner subsequently enact regulations regarding outdoor displays and signs at pawnshops and the maintenance of the premises at pawnshops, may the city continue to enforce its regulations so long as those regulations are not in conflict with the rules adopted by the Commissioner?
3. If the answer to Question No. 1 is no, may the city adopt regulations prohibiting outside sales and outside storage at pawnshops?
4. Does Article 51.17B(r) of the Texas Pawnshop Act exempt pawnshops from city-wide regulations regarding high weeds and landscaping?

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I would appreciate your prompt attention to an opinion concerning these four issues.
Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "David H. Cain". The signature is written in dark ink and is positioned below the word "Sincerely,".

David H. Cain